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INFO RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE IMMEDIATE
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RUEHME/AMEMBASSY MEXICO IMMEDIATE 5284
RUMIAAA/CDR USSOUTHCOM MIAMI FL//J2/J3/J5// IMMEDIATE
RUEAIIA/CIA WASHDC IMMEDIATE
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RUCOWCA/COAST GUARD SECURITY CTR CHESAPEAKE VA IMMEDIATE
RHMFISS/COGARD INTELCOORDCEN WASHINGTON DC IMMEDIATE
RUEABND/DEA HQS WASHINGTON DC IMMEDIATE
RUCPDO/DEPT OF COMMERCE WASHINGTON DC IMMEDIATE
RHEFDIA/DIA WASHINGTON DC IMMEDIATE
RUEAHLA/HOMELAND SECURITY CENTER WASHINGTON DC IMMEDIATE
RUEKJCS/JOINT STAFF WASHINGTON DC IMMEDIATE
RUEHLMC/MILLENNIUM CHALLENGE CORP WASHDC IMMEDIATE
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RUEKJCS/SECDEF WASHDC IMMEDIATE
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SENSITIVE
SIPDIS

DEPT FOR WHA/CEN
DEPT FOR L/OES - A. ROCHE
DEPT FOR INR/IAA - EMERSON AND INR/GGI - MILEFSKY
DEPT FOR EEB AND OES
DEPT FOR IO/T LUSTIG
DEPT FOR CA/OCS
DEPT FOR EEB/TRA AND OES/OA
STATE FOR USOAS

E.O. 12958: N/A
TAGS: [PBTS](#) [PREL](#) [EWWT](#) [EFIS](#) [CASC](#) [MOPS](#) [CO](#) [XK](#)
SUBJECT: ACTION REQUEST: NEW 'NOTICE TO MARINERS' ON CHANGE
OF CONTROL AFTER ICJ RESOLUTION OF NICARAGUA-HONDURAS
MARITIME DISPUTE

REF: MANAGUA 185 (NOTAL)

11. (U) THIS IS AN ACTION REQUEST. Please see paragraph 10
for Action.

12. (SBU) BACKGROUND AND SUMMARY: In October 2007, the
International Court of Justice (ICJ) in The Hague issued a
decision resolving a long-standing maritime boundary dispute
between Nicaragua and Honduras. This decision established a
new maritime boundary which granted Nicaragua control over a
portion of ocean that had previously been under the control
of Honduras. Following the decision, the Government of
Nicaragua (GON) ordered the Nicaraguan Navy to expand its
maritime patrols to include the area previously controlled by
Honduras and enforce Nicaragua's requirement that fishing
vessels operating in Nicaraguan waters hold a valid
Nicaraguan fishing license. Since October, the Nicaraguan
Navy has impounded about a dozen vessels, including two that
are U.S.-owned, for allegedly not being in possession of
valid Nicaraguan fishing licenses. The GON has an
established procedure to reverse the seizures and return the
vessels to the rightful owners once fines and demurrage are
paid.

13. (SBU) We note that there is another separate maritime
boundary dispute between Nicaragua and Colombia regarding
waters surrounding the San Andres archipelago that Nicaragua
claims as its EEZ. In December 2007, the ICJ issued an
interim opinion on this dispute, but did not resolve it
definitively. This dispute should not be confused with the
now-resolved Honduras-Nicaragua issue. A Notice to Mariners
for this entire area has been in effect since 1994, revised
in 1997. However, the notice does not reflect changes

resulting from the recent ICJ decisions. We have strengthened our Country Specific Information (CSI) on this matter two times in the last 12 months. END BACKGROUND AND SUMMARY.

Nicaraguan/Honduran Maritime Border Dispute Resolved

14. (SBU) The ICJ ruling in the case of Nicaragua versus Honduras of October 8, 2007 granted the GON control over certain maritime areas previously claimed by Honduras north of the 15th parallel. (NOTE. The court awarded sovereignty to Honduras of four island Keys-- Bobel, Savanna, Port Royal and South, -- and the southern 12-nautical mile arc around them. For the actual decision see [http://www.icj-cij.org/docket/files/120/14075 .pdf](http://www.icj-cij.org/docket/files/120/14075.pdf). END NOTE.)

Immediately following the ICJ ruling, the GON ordered the Nicaraguan Navy to expand its patrols to include the newly-awarded maritime space. Since October, the Nicaraguan Navy has seized and impounded several fishing vessels due to fishing license problems. Although some owners have asserted that their vessels were "stolen," the GON has not asserted that it will restrict exclusive rights to fish these waters to Nicaraguan vessels. Rather, they are allowing all properly-licensed vessels and crews to fish in these waters, as before when the space was under Honduran control. Now, however, the licenses must come from Nicaragua, not Honduras.

15. (U) The Nicaraguan Navy has seized several vessels operating in the area. Most have been Honduran vessels;

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though two were U.S.-owned (one U.S.-flagged, "Shooting Star", and one Honduran-flagged, "Fish Hawk"). According to our contacts within the GON and the Nicaraguan Navy, the Navy seized both U.S. vessels for not holding valid licenses to fish in Nicaraguan waters. The GON has an established process to resolve these types of license violations and has assured us that this process applies for both impoundment cases involving U.S.-owned ships. The GON has informed us that the resolution process requires that owners (or owners, agents) pay specified fines as well as demurrage charges. An alternative would be to fight the seizure and impoundment in local court. We were contacted directly by the American Citizen (AmCit) owner of one of the impounded vessels (and by the office of Senator David Vitter on behalf of the same Amcit owner). In response to both the direct contact and the Congressional inquiry, we identified the two obvious alternatives to resolve the situation and relayed the GON's basic information about its process. We also provided the AmCit with the Consular Attorneys List, some of whom have maritime law experience.

Colombia a Separate Issue

16. (U) The Honduras/Nicaragua ICJ ruling is separate from another dispute between Nicaragua and Colombia south of the 15th parallel and east of the 82nd meridian, regarding the waters surrounding the San Andres Archipelago that Nicaragua claims as within its Exclusive Economic Zone (EEZ). NOTE: Decision can be found at [http://www.icj-cij.org/docket/files/124/14305 .pdf](http://www.icj-cij.org/docket/files/124/14305.pdf). END NOTE.

On December 13, 2007 the ICJ issued a partial decision in this dispute. The Court ruled that the islands themselves were under Colombian sovereignty. The Court also determined that it held competent jurisdiction to rule on the maritime delimitation of control over the surrounding waters; however, it chose to defer a final determination until after the submission of additional pleadings set for November 2008. In issuing its interim decision, the Court also urged both parties try to resolve the issue on their own. To our knowledge, no bilateral discussions on this topic have yet taken place.

17. (U) It is important to note that the area awarded to

Nicaragua in the Nicaraguan/Honduras case does not overlap with the waters in dispute in the Nicaragua/Colombia case. The two U.S.-owned ships recently impounded by the Nicaraguan Navy were seized within the newly-awarded Nicaraguan waters just north of the 15th parallel and east of the 82nd meridian, which also constitute the working boundaries of the disputed Nicaragua/Colombia boundary. In its decision on the Nicaragua-Honduras case the ICJ stated, "The Court . . . observes that any delimitation between Honduras and Nicaragua extending east beyond the 82nd meridian and north of the 15th parallel (as the bisector adopted by the Court would do) would not actually prejudice Colombia's rights because Colombia's rights under this Treaty do not extend north of the 15th parallel." Therefore, according to the ICJ ruling in the Honduras-Nicaragua case, Colombia has no claim north of the 15th parallel, which is the area newly-awarded to Nicaragua. Our GON sources inform us, and we have confirmed, that the Nicaraguan Navy seizures have all taken place well within this new maritime space. Colombia has no overlapping

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or competing claim in this area, and the two disputes should not be confused or conflated, as far as these two impoundment are concerned.

Revised Notice to Mariners Needed

18. (U) Since 1994, the Department has had an active Special Warning, published in the National Geospatial-Intelligence Agency's weekly U.S. Notice to Mariners, warning that "Nicaragua has boundary disputes with its neighbors . . ." and that "(m)ariners operating small vessels such as yachts and fishing boats . . . should exercise caution." This Special Warning was revised in October 1997, and therefore makes no mention of the two recent ICJ opinions or Nicaragua's newly recognized maritime sovereignty.

19. (U) Given these recent developments, we have revised our CSI two times within the last 12 months and strengthened the warning language each time. The current text -- contained in para 12 below -- we submitted to the Department on May 21.

ACTION REQUEST

10. (U) ACTION REQUEST: Post requests that the Department consider issuing a new Special Warning published in the U.S. Notice to Mariners specific to these separate ICJ decisions regarding separate and new maritime delimitation in the Caribbean. We have provided suggested language in paragraph 11 below.

11. (U) BEGIN SUGGESTED TEXT FOR U.S. Notice to Mariners Nicaragua Special Warning:

SPECIAL WARNING NO. #.
NICARAGUA.

-1. Mariners operating small vessels such as yachts and fishing boats should note that Nicaragua has boundary disputes with its neighbors in both its Caribbean and Pacific waters, and should exercise caution.

-2. The Caribbean waters lying generally south of the 15th parallel and east of the 82nd up to the 79th meridians are subject to a current dispute between Nicaragua and Colombia.

-3. The International Court of Justice has delimited a new maritime boundary line awarding maritime sovereignty to the Government of Nicaragua in maritime areas previously claimed by Honduras above the 15th parallel. The Nicaraguan Navy is patrolling this maritime space, enforcing the requirement that fishing vessels hold a valid Nicaraguan fishing license, and has seized vessels not in compliance.

-4. There have been cases where Nicaraguan authorities have seized foreign-flagged fishing and other vessels off the Nicaraguan coast. The government of Nicaragua imposes heavy fines on parties caught fishing illegally within waters of Nicaragua's jurisdiction.

-5. While in all cases passengers and crew have been released within a period of several weeks, in some cases the ships

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have been searched, personal gear and navigational equipment has disappeared, and Nicaraguan authorities have held seized vessels for excessive periods. Prompt U.S. Embassy consular access to detained U.S. citizens on Nicaragua's Caribbean coast may not be possible because of delays in notification due to the relative isolation of the region.

-6. There have been reported incidents of piracy in Caribbean and Pacific waters off the coast of Nicaragua, but the Nicaraguan Navy has increased its patrols and no recent incidents have been reported.

-7. Cancel Special Warning No. 95.

END SUGGESTED TEXT.

¶12. (U) BEGIN TEXT OF Nicaragua Country Specific Information (CSI):

(Within the Safety and Security Section.) Nautical travelers should be aware that there is an ongoing boundary dispute with Colombia over the San Andres Island archipelago and the surrounding waters, specifically the area east of the 82nd and up to the 79th meridian. Furthermore, the Government of Nicaragua has also begun to exercise sovereignty over territorial waters that were formerly controlled by Honduras but recently awarded to Nicaragua by the International Court of Justice. Two U.S.-flag fishing vessels were recently impounded by Nicaraguan authorities for allegedly fishing without a Nicaraguan permit in these zones.

END TEXT.

Comment

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¶13. (SBU) We expect that this problem may continue for several months, if not years, as commercial fishers and mariners learn that Nicaragua is exercising its control over the formerly Honduran-controlled waters north of the 15th parallel, and until the dispute with Colombia over waters south of parallel 15 and east of meridian 82 is resolved. We responded to inquiries about the impounded U.S.-owned vessels by providing information about the established GON process to resolve these cases. We believe that the GON will facilitate a resolution once it has been contacted by the owners or their agents. We will continue to monitor the progress of AmCit efforts to resolve these two seizures, and are prepared to step in and assist should the GON deviate from or delay the resolution process as it described to us.

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